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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,551	10/24/2003	Dac-Sung Han	1594.1290	7503
21171	7590	06/28/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER BASICHAS, ALFRED	
			ART UNIT	PAPER NUMBER
			3749	
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			06/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,551

Applicant(s)

HAN ET AL.

Examiner

Alfred Basichas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,10,11,13-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 8,9 and 18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 2, 4-7, 10, 11, 13-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant submitted Japanese Abstracts of Nishina (2000-166771), Nishina (2000-254007), Nishina (2001-120440), or Kondo (JP11-267032). Nishina and Kondo discloses substantially all of the claimed limitations, such as a cabinet 1/1/2/11,12, a grill mounted on the top thereof 4/3/6/7, covers (in the form of caps) respectively over each of the water tanks 2/2/2/2,3 to selectively open and close each of the water tanks, a plurality of metallic grill pipes 4/3/6/7 (if not specifically recited, inherently metallic as required to provide for heat transfer and suitable conduit), wherein each of the grill pipes has a horizontally extended part on which food is placed that is bent to be positioned lower than both ends of the grill pipes connected to the water tanks to position the food near the at least one heater arranged below the food, and water tanks attached thereto (see figures, it should be noted that at any bend there is a small portion that is horizontal). The grill pipes of the aforementioned references further disclose a wherein each end of each of the grill pipes comprises a laterally extended part with a predetermined length, an upwardly extended part upwardly bent and extended from the laterally extended part and opened at a top thereof to interface with an inside of a corresponding one of the water tanks, wherein each end of each of the grill pipes has an inclined part downwardly bent at a predetermined angle and extended from a respective laterally extended part, the horizontally extended part of each grill pipe extending between respective inclined parts to position the horizontally

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extended part lower than the water tanks, wherein each end of each of the grill pipes has an inclined part downwardly bent at a predetermined angle and extended from a respective laterally extended part, the horizontally extended part of each grill pipe extending between respective inclined parts to position the horizontally extended part lower than the water tanks, and wherein the water supplied into the grill pipes from the water tanks prevents the grill pipes from overheating when heat is applied to the grill pipes, thereby preventing food placed on the grill pipes from burning. Nevertheless, Nishina and Kondo do not specifically recite the water tanks being made of resin material, each of the water tanks with a lower portion being thicker than the side portion, or the transparent water level window or pipe.

- a. As regards the remainder of the limitations of claim 1 and 10,
 - i. Official Notice is given that the use of resin as a material for water containers is old and well known in the art. Such an arrangement has the clear and obvious benefit of providing for a water tight container that avoids leaking. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the resin material for the water tanks into the invention disclosed by Nishina and Kondo, so as to provide for watertight containers.
 - ii. In addition, the particular material used is simply a matter dependent on availability and cost. This material is well within the knowledge and ability of one of ordinary skill in the art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have incorporated the claimed material into the invention disclosed by Nishina and Kondo, so as to satisfy considerations of availability and cost.

iii. As regards the thicker lower portion, it is well settled in the most basic of engineering principles that an increase thickness of most any material will increase the strength and rigidity of the structure. The decision to increase the thickness of a structure so as to provide greater strength is most often weight against increased cost of materials. A fine balance must be maintained by most manufacturers to maximize the strength and durability of structure with the cost thereof. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the claimed relative thickness into the invention disclosed by Nishina and Kondo, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable values or ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233; *In re Swain*, 156 F.2d 239.

iv. As regards applicants' assertion that the relative thickness of the lower and side portions, this too would be based on discovering the optimum or workable values or ranges. Yet, this would only be such an issue if there were criticality to the claimed design. In view of the absence of criticality for this particular design, the claimed shape/size/location/

orientation is an obvious modification based on design choice, and depends on spatial considerations. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate it into the invention disclosed by Nishina and Kondo, so as to provide for spatial considerations.

b. As regards the transparent window and pipe of claims 6, 7, and 15, Official Notice is given that the use of transparent windows and pipes with water containers is old and well known in the art. Such an arrangement has the clear and obvious benefit of providing for indication of the water level inside the container. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate transparent windows and pipes into the invention disclosed by Nishina or Kondo, so as to provide for indication of water or fluid level.

Response to Arguments

5. Applicants' arguments with regard to the rejected claims, filed December 14, 2006, have been considered, but are not deemed fully persuasive.

c. Applicants assert that since the prior art teaches metal, the claimed relative thickness "would not have been necessary." Applicants are advised that necessity is not a requisite of obviousness. In addition, the test for obviousness is not whether any feature may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly

suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, applicants argue against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of teachings. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

d. Applicants further assert that the reasoning based on *In re Aller* and *In re Swain* is not applicable because the fact patterns of these cases do not deal in exactly the same fact pattern of the instant case. Again, applicants are advised that this line of reasoning is not the standard of analysis.

e. As regards applicants' arguments regarding the first and second horizontal portions, the examiner disagrees with applicants overly narrow interpretation of the claim language. Specifically, applicants are advised that the curved orientation of the prior art device includes the claimed portions, albeit integral and fluid. Applicants further assert that it is not clear how the previous argument addressed above narrowly interpret the claimed feature and cite the figure 2 to illustrate their interpretation. Applicants are reminded that although the claims are interpreted in light of the specification or drawings, limitations from the specification or drawings are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

f. The examiner's assertion of Official Notice is taken to be admitted prior art in view of applicants' non-traversal of the assertion. MPEP 2144.03. The examiner appreciates applicants' waiver and efforts to expedite prosecution of the instant invention by avoiding unnecessary deliberations of well known aspects of the art.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

June 20, 2007



Alfred Basichas
Primary Examiner